

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

CAPRICE HOULDEN,)	
)	
)	
vs.)	
)	No. 1:13-cv-706-JMS-DKL
D. ZATECKY,)	
)	
)	

Petitioner,

Respondent.

Entry and Order Dismissing Action

I.

A.

A state prisoner seeking a writ of habeas corpus bears the burden of demonstrating that he "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. ' 2254(a). When the challenged custody results from a prison disciplinary proceeding, due process requires that certain procedural safeguards be observed and that the decision be supported by a minimum quantity of evidence.

Due process requires that prisoners in disciplinary proceedings be given: "(1) advance (at least 24 hours before hearing) written notice of the claimed violation; (2) the opportunity to be heard before an impartial decision maker; (3) the opportunity to call witnesses and present documentary evidence (when consistent with institutional safety); and (4) a written statement by the fact-finder of the evidence relied on and the reasons for the disciplinary action." *Rasheed-Bey v. Duckworth*, 969 F.2d 357, 361 (7th Cir. 1992); *see also Wolff v. McDonnell*, 418 U.S. 539, 94 S. Ct. 2963, 41 L.Ed.2d 935 (1974).

Scruggs v. Jordan, 485 F.3d 934, 939 (7th Cir. 2007). In addition, there is a substantive component to the issue, which requires that the decision of a conduct board be supported by "some evidence." *Superintendent v. Hill*, 472 U.S. 445 (1985).

B.

In the present case, Caprice Houlden seeks a writ of habeas corpus pertaining to a disciplinary proceeding identified as No. ISR 12-11-006. In the challenged proceeding, Houlden was charged with and found guilty of possession of a weapon, which is prohibited by prison rules. The evidence supporting this finding is that during a search of Houlden's cell on the evening of November 1, 2012, at the Pendleton Correctional Facility a knife was found underneath letters in a t v box.

Houlden contends that the hearing officer's finding of guilt was not supported by sufficient evidence. This contention, however, is refuted by the conduct report itself, which was part of the evidence considered. The conduct report narrates that a search of Houlden's cell was being conducted, that a knife was found, and where in the cell the knife was found. The "some evidence" standard is lenient, "requiring only that the decision not be arbitrary or without support in the record." *McPherson v. McBride*, 188 F.3d 784, 786 (7th Cir. 1999). A conduct report alone may suffice as some evidence. *Id.*; see also *Webb v. Anderson*, 224 F.3d 649, 652 (7th Cir. 2000) (even a meager proof is sufficient). Here, the conduct report is clear and provides a direct account of the weapon being located. Although the evidence before the disciplinary board must "point to the accused's guilt," *Leney v. Lane*, 882 F.2d 1171, 1175 (7th Cir. 1989), only evidence that was presented to the Adjustment Committee is relevant to this analysis. *Hamilton v. O'Leary*, 976 F.2d 341, 346 (7th Cir. 1992); see also *Hill*, 472 U.S. at 457 ("The Federal Constitution does not require evidence that logically precludes any conclusion but the one reached by the disciplinary board."). The evidence here was constitutionally sufficient.

C.

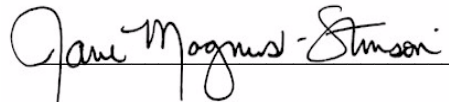
The touchstone of due process is protection of the individual against arbitrary action of the government." *Wolff*, 418 U.S. at 558. There was no arbitrary action in any aspect of the charge, disciplinary proceeding, or sanctions involved in the events identified in this action, and there was no constitutional infirmity in the proceeding which entitles Houlden to the relief he seeks. His arguments that he was denied the protections afforded by *Wolff* and *Hill* are refuted by the expanded record. Accordingly, his petition for a writ of habeas corpus must be **denied** and the action dismissed.

II.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 01/16/2014


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

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